

EXHIBIT H

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 FACEBOOK, INC.,)
6)
7 Plaintiff,) Case No.
8 vs.) 5:08-cv-05780 JW (JCS)
9)
10 POWER VENTURES, INC., a)
11 Cayman Island Corporation;)
12 STEVE VACHANI, an individual;)
DOE 1, d/b/a POWER.COM,)
DOES 2-25, inclusive,)
Defendants.)
_____)

13
14
15 CONFIDENTIAL
16

17 VIDEOTAPED DEPOSITION of POWER VENTURES,
18 INC.'S 30(b)(6) Designee STEVEN VACHANI taken on behalf
19 of Plaintiff, at Orrick, Herrington & Sutcliffe LLP, 405
20 Howard Street, 10th Floor, San Francisco, California
21 beginning at 9:13 a.m., Monday, January 9, 2012, before
22 CHERREE P. PETERSON, RPR, CRR, Certified Shorthand
23 Reporter No. 11108.
24
25

1 Q. Is there any topic that's listed in Exhibit
2 188 -- and you can -- you can take a look through them
3 if you need to -- that you felt you were not able to
4 testify about?

09:29 5 A. I feel I can testify on these topics. I don't
6 know the level of specificity that you're going to go in
7 some of the technical details, so -- but I'm familiar
8 with all these subjects. But there are definitely areas
9 that I was not specifically managing on a day-to-day
09:29 10 basis. And if that were to come up, I'll let you know.

11 Q. Okay. Appreciate that. And I'm going to try
12 and expedite that particular issue right now for you.
13 Hopefully if -- I think where this is going to go, it
14 will make it a lot easier.

09:29 15 We can mark that Exhibit 189.
16 (Plaintiff's [Exhibit No. 189](#) marked for
17 identification.)

18 Q. BY MR. CHATTERJEE: Mr. Vachani, what I've
19 handed you as Exhibit 189 is a declaration that you
09:30 20 submitted in opposition to Facebook's motion to compel
21 documents. Is this your signature at the bottom?

22 A. Yes, it is.

23 Q. And this -- this declaration was truthful and
24 accurate when you submitted it?

09:30 25 A. Yes.

1 Q. In the second paragraph you stated "Power has
2 already produced the actual source code it used to
3 access Facebook's website. The source code as well as
4 the other documents Power has produced in this case such
09:30 5 as the PowerScript Training documents and PowerScript
6 Documentation Developer Manual show precisely how Power
7 accessed Facebook's website." These "documents
8 constitute the best possible information Power has to
9 understand how Power accessed Facebook's website."

09:31 10 Do you see that?

11 A. Yes.

12 Q. Okay. So that statement was accurate when you
13 made it?

14 A. Yes.

09:31 15 Q. Is it fair to say that the -- the actual
16 source code that Power has produced in this case is the
17 best evidence of what Power did and how it was doing it
18 with respect to the Facebook web site?

19 MR. FISHER: Objection. Vague.

09:31 20 THE WITNESS: I believe we've provided
21 everything that we had available. So -- so therefore
22 everything that was possibly available as we provided,
23 therefore that's the best that could be provided.

24 MR. CHATTERJEE: Okay. Could you read the
09:31 25 question back, please.

1 Facebook -- on the Facebook site. There are two
2 different things.

3 And I'll give you a specific example. There
4 exists in our database, for example, a thing that would
09:38 5 track messages sent by -- by -- if a -- if a user wanted
6 to send an invitation to a friend, for example. This
7 code exists and even a database log exists. But at that
8 time back in December whatever, we never sent a single
9 message. So that -- that -- that thing was empty or,
09:38 10 you know, that -- but -- but the ability to send
11 messages existed. Just because something exists doesn't
12 mean -- you know, at times I've seen that Facebook
13 has -- has made irresponsibly and sometimes incorrectly
14 statements saying that we did something because our code
09:38 15 -- because the capability existed. And that's -- that's
16 what I'm trying to say.

17 Q. Okay. Move to strike as nonresponsive.

18 Mr. Vachani, is the statements made in
19 paragraph 2 accurate?

09:39 20 MR. FISHER: Asked and answered.
21 Argumentative.

22 THE WITNESS: So I'll read it again. We have
23 produced the actual source codes. That's correct, we
24 have produced the source code. And the source code does
09:39 25 show how we accessed -- how we accessed the site, at

1 least. So I think the statement is correct.

2 Q. Okay.

3 A. But you asked --

4 Q. Hold on. Okay. I need you to answer my
09:39 5 questions. I don't need you volunteering information.
6 We're going to be here for days if that happens.

7 A. Okay.

8 Q. That statement is correct?

9 A. That statement is correct.

09:39 10 Q. And it is accurate?

11 A. It is accurate.

12 Q. Is there any other information that I would
13 need beyond the things that you have said in paragraph 2
14 to know how Power accessed Facebook's web site?

09:39 15 A. No.

16 Q. Okay. Let's go to the second issue. I'm
17 going to talk about the event invitations that were sent
18 through the Facebook system. Do you know what I'm
19 talking about when I refer to that?

09:40 20 A. Yes, I do.

21 Q. Okay. Now, would the -- would the actual
22 source code that was used to -- to facilitate the
23 creation of those event invitations, would those be the
24 best possible information Power has to understand how
09:40 25 Power accessed Facebook's web site?

1 and they then post that on a wall. It's pretty much
2 very similar type of -- type of action. We -- we were
3 authorized by users who were using one of our apps to --
4 to create an event or to create a posting on -- on the
09:43 5 walls or event pages on Facebook and then completed
6 those actions at their -- at their request.

7 That's -- I'll finish. I believe that's the
8 best way to answer the questions. Because to go and say
9 all the possibilities of what exists in the source code
09:43 10 is -- is -- is completely inappropriate because there
11 are unlimited possibilities based on source code.

12 MR. CHATTERJEE: Okay. Let's mark this as
13 Exhibit 190.

14 (Plaintiff's [Exhibit No. 190](#) marked for
09:44 15 identification.)

16 Q. BY MR. CHATTERJEE: Mr. Vachani, what I've
17 handed you marked as Exhibit 190 is Power Ventures'
18 supplemental responses to Facebook's interrogatory
19 certain numbers. Do you see that?

09:44 20 A. Yes.

21 Q. If you look at the supplemental response to
22 interrogatory number 1, which is on page 2.

23 A. Okay.

24 Q. Oh. Let me -- let me just ask you. If you
09:44 25 look at the very last page. I'm sorry. It's the third

1 to last page. There's a verification there.

2 A. Okay.

3 Q. And -- and -- and that's your signature on the
4 page?

09:45 5 A. Yes.

6 Q. You took efforts to ensure that the statements
7 in the interrogatory were truthful and accurate?

8 A. Yes.

9 Q. And is -- is there anything about these
09:45 10 interrogatories as best as you recall that -- that you
11 think was inaccurate or needed further detail to ensure
12 that they weren't misleading?

13 A. To the best of my knowledge. Obviously
14 there's a lot of information that goes on. But to the
09:45 15 best of my knowledge these are correct.

16 Q. Okay. So in interrogatory number 1, the
17 statement asks "Describe in detail AND IDENTIFY the
18 process by which POWER accesses OR accessed the FACEBOOK
19 WEBSITE." Do you see that?

09:45 20 A. Yes.

21 Q. And if you look in the supplemental response
22 in the second paragraph, Power referred to its source
23 code produced on 8-23-11 and 9-14-11. Do you see that?

24 A. Correct.

09:46 25 Q. And it states "The source code is the primary

1 source material, as it contains the exact functions and
2 technical mechanisms through which Power accessed the
3 Facebook Website."

4 Do you see that?

09:46 5 A. Correct.

6 Q. Statement was truthful and accurate?

7 A. Yes.

8 Q. Okay. And then you say, "Additionally, Power
9 refers to documentation stored in Power's subversion
09:46 10 repository," "produced on 10/24/11."

11 Do you see that?

12 A. Yes.

13 Q. Okay. Is there any particular reason you
14 didn't refer to any of the discussions you and I just
09:46 15 had about what aspects of Power's code may or may not
16 have been used in order to access the Facebook web site?

17 MR. FISHER: Objection. Vague.

18 THE WITNESS: So ask the question again,
19 please.

09:46 20 Q. BY MR. CHATTERJEE: Okay. Earlier today in
21 your testimony you said that there are some portions of
22 the code that were used and some portions of the code
23 that were not used in accessing the Facebook web site.
24 Correct?

09:47 25 A. Correct.

1 Q. The -- the -- the reason that I'm asking
2 about --

3 A. Yeah.

4 Q. -- this specific beginning part --

11:29 5 A. Yeah.

6 Q. -- is I didn't see a response --

7 A. Yeah.

8 Q. -- to this e-mail.

9 A. Yeah.

11:29 10 Q. So I'm -- I'm wondering what happened after
11 you sent this series of questions on August 23rd, two
12 thousand --

13 A. Nothing. He was too busy to -- to look
14 further. He -- he was -- he just gave me this answer
11:29 15 that it looks like all the relevant and important stuff
16 -- what -- what you see here is the database is the
17 conversation that we had.

18 Q. Okay. So, for example, on the second
19 paragraph you say "Also, is the script for our creation
11:29 20 of events and for our power 100 campaign? I would like
21 to discuss those scripts with you to get your thoughts
22 on them."

23 A. Yeah.

24 Q. My first question is did you ever talk to Mr.
11:29 25 Santos after sending this e-mail about the script for

1 creation of events and the Power 100 campaign?

2 A. To the best of my recollection, he didn't have
3 the time to -- to do that. But also to the best of my
4 recollection, I believe that you guys did have the time
11:29 5 to go through all those files and scripts and you know
6 better probably than Eric what's in there.

7 Q. The code would be the best evidence of that?

8 A. Yeah. The code's the best evidence. And he
9 just verified that he saw the most important stuff in
11:30 10 there, which is the database that's usually where --
11 what he told -- what I remember him -- he said that's
12 where you would find these, it's inside the database,
13 and that database has been fully provided to you.

14 Q. All right. And so why -- why were you -- why
11:30 15 did you want to discuss the scripts with -- with Mr.
16 Santos and get his thoughts on them?

17 A. Well, as far as I understand face -- you guys
18 were asking a lot of questions. So I wanted to educate
19 myself and understand as best as possible, you know, in
11:30 20 relation to this case what -- you know, what was in
21 there and -- and so I could be fully prepared to discuss
22 and answer questions that you guys are asking.

23 Q. Was -- was that because Mr. Santos was more of
24 the -- the code writing technical expert than you?

11:30 25 A. He would know more -- if -- if -- I could look

1 Q. Do you recognize this document?

2 A. I do not. I mean, it's a -- I didn't -- I
3 haven't seen this e-mail at all in three years. But
4 yeah, I do.

11:49 5 Q. So this is an e-mail string between someone
6 named Joe Shapiro at USshow.com (verbatim) --

7 A. Correct.

8 Q. -- you and Eric Santos, correct?

9 A. That's correct.

11:49 10 Q. I also see a reference to Gloria at power.com.
11 Who is that?

12 A. Gloria was a administrative assistant that
13 worked at the company.

14 Q. In -- on the second page -- well, on the first
11:49 15 page you'd agree with me Mr. Shapiro contacted Mr.
16 Santos and cc'd you asking a -- a serious -- a series of
17 questions about -- about accessing other web sites
18 through IP addresses, right?

19 A. Through -- relating to his Ushow, he was,
11:49 20 correct.

21 Q. Mr. Santos in the response to this e-mail on
22 December 12th, 2008, stated "Generally some social
23 networks" "terms have a clause to forbidden theirs users
24 to use external tools not affiliated." Do you see that?

11:50 25 A. Correct. Yes.

1 Q. At the time Mr. Santos was the chief
2 technology officer of -- of Power, right?

3 A. Correct.

4 Q. And -- and is it fair to say that at that
11:50 5 point in time the chief technology officer of Power
6 recognized that some social networks did not allow
7 external tools to access the social networking web
8 sites?

9 A. Yes.

11:50 10 MR. FISHER: Objection. Vague. Calls for
11 speculation.

12 THE WITNESS: I believe it's fair to say that
13 sites have terms in their own terms and conditions that
14 have stated things relating to this. That's correct.
11:50 15 Something that we've discussed many times in the past.

16 Q. BY MR. CHATTERJEE: And -- and at this point
17 in time Power knew that -- that Facebook's terms forbid
18 that, right?

19 A. Facebook's terms forbid users. That's
11:51 20 correct.

21 Q. Now, Mr. Santos makes a comment here "You
22 should put more ips in your proxy" servers. "We created
23 in our network a subnet only for proxy servers."

24 Do you see that? Do you know what he was
11:51 25 talking about when he referred to putting more IPs in

1 always believed that and we were exploring in those ways
2 what would -- what we do if a user wants to get their
3 data. And -- and this was a -- an exploration.

4 Q. Let me establish some foundation around this,
12:07 5 Mr. Vachani. You said in this instant message "we also
6 need to do some planning to make sure that we do it in a
7 way where we are not really detected," correct?

8 A. That's correct.

9 Q. And the reason that you said that was because
12:07 10 you didn't want web sites like Orkut to detect what you
11 were doing, right?

12 A. Not to detect. If -- if they attempted to
13 block, block the -- the sites, we wanted to understand
14 what are the issues.

12:07 15 Q. And you wanted to be able to interfere with
16 their ability to block you, right?

17 MR. FISHER: Objection. Vague.
18 Argumentative.

19 THE WITNESS: To interfere with their ability
12:07 20 to block, no. I'm saying -- we -- this -- exactly what
21 it says here. We had a -- we had a hypothetical
22 conversation about -- about the issues relating to data
23 extraction where users wanted to access their own data.

24 Q. BY MR. CHATTERJEE: And you knew that the web
12:07 25 sites that were housing that data wouldn't like what you

1 were doing.

2 A. We didn't know --

3 MR. FISHER: Objection. Calls for speculation

4 --

5 THE WITNESS: We didn't know if they would

6 like --

7 THE REPORTER: Okay. Whoa. I'm sorry.

8 Please restate your --

9 THE WITNESS: We didn't know if they would

10 like it or not --

11 THE REPORTER: I'm sorry. Hold on. Please.

12 MR. FISHER: Vague. Assumes facts not in
13 evidence. Lacks foundation. Incomplete hypothetical.
14 Argumentative.

12:08 15 THE WITNESS: Okay. We didn't -- we have no
16 idea what they were -- this is 2005. But we know that
17 if -- if a user is -- obviously some sites and it turns
18 out Facebook that, you know, in the future was -- was
19 not Orkut. It was -- you know, Facebook does not -- did
12:08 20 not want users to export their own data. And while --
21 and we have always stated very publicly and clearly that
22 we believe that users, you know, do have rights to
23 access their data. So we were exploring and
24 understanding what are the potential reactions that
12:08 25 sites could have. This was a -- this was a hypothetical

1 A. I'm saying this is a conversation in 2005 that
2 had nothing to do with the -- with the Power technology
3 or the Power business. It was an -- it was specifically
4 an exercise in user-generated access of their data and
12:10 5 data where they're importing data from other sites and
6 exploring the issues relating to that. That's all it
7 was.

8 Q. All right. And in 2005 you knew that possibly
9 rotating IPs would be one way to avoid detection from
12:10 10 the web sites in exporting data, correct?

11 A. I -- we was -- it was one of the many things
12 that were -- that were discussed in exploring what ways
13 that sites will access sites.

14 Q. Okay. Go to the next page top. It says
12:10 15 "Steve says: we need to plan this very carefully."
16 Do you see that?

17 A. Yes.

18 Q. What did you mean when you said that?

19 A. Exactly this. We need to -- we need to look
12:10 20 at every detail.

21 Q. Why?

22 A. I think the -- the same question here is that
23 we're -- we're look -- we're -- we were exploring every
24 detail of -- of -- of -- of importing data and
12:11 25 understanding that because some -- importing data is not

1 something that while it's a right and something that's
2 been established that users have the right to do, not
3 every site -- not every site wants users to -- to be
4 able to get their own -- access their data. Obviously
12:11 5 Facebook being one of the greatest, you know, companies
6 that have traditionally been against -- been against
7 this publicly. You know, users trying to access their
8 own data. This is -- this is something that we -- we
9 always understood that, you know, just because it's --
12:11 10 it's correct and it's okay for users to access their own
11 data doesn't mean that every site will -- will allow
12 users to access their own data.

13 Q. So you knew that the web sites may not like
14 having users access and export data?

12:11 15 A. Historically importing data has never been --
16 has never -- many sites have always objected to it and
17 it -- and despite that fact, it has been going on for
18 ten years and been a commonly-accepted practice.

19 Q. I understand that. But you -- you understand
12:12 20 that even at the time you wrote this instant -- or the
21 portions of this instant message chat log that web sites
22 were often against exporting data from their web site to
23 another place?

24 MR. FISHER: Objection. Vague. Calls for
12:12 25 speculation.

1 THE WITNESS: I understood that. And I also
2 understood that -- that's correct.

3 Q. BY MR. CHATTERJEE: Okay. That's correct.
4 And so one of the things that you wanted to do was to
12:12 5 have multiple IP addresses to allow for the extraction
6 of data without the ability of those web sites to block
7 you; isn't that fair?

8 A. If a user authorized that -- that, correct.
9 That's something we've -- we've always said.

12:12 10 Q. Okay. And -- and you said in -- in this chat
11 log "since we will only have one chance to do it."

12 What did you mean by "we will only have one
13 chance to do it"?

14 A. I believe that we were -- we were just sharing
12:13 15 -- conversation that -- that accessing -- importing
16 data, you know, we wanted -- we wanted to do it right.
17 You know, we wanted to make sure that if a user wanted
18 to access their own data that they would be able to do
19 it. That's basically that -- we understood that import
12:13 20 -- importing data is a sensitive -- is a sensitive
21 subject, despite the fact that we strongly believe its
22 the user's right. And that's basically what this
23 discuss -- discussion was about.

24 Q. Okay. Farther down you say "lets" "plan on
12:13 25 getting the data grab done as soon as possible."

1 A. I believe that on January 4th The New York
2 Times posted an article relating to the lawsuit. And I
3 believe Michael Ross was asking a question about that.

4 Q. If -- and this is -- the top is your response
12:23 5 to Mr. Ross, right?

6 A. That's correct.

7 Q. In -- in this e-mail you say "Facebook took
8 what should have been a standard measure...."

9 Do you see that?

12:23 10 A. Yeah.

11 Q. What are you referring to there?

12 A. Let me see what he's asking. So in any
13 situation in our system when the system cannot access
14 for whatever reason, one of the strategies -- one of the
12:23 15 things it does -- and this is as you -- as you've
16 already pointed out predates Facebook significantly. It
17 automatically -- it updates the IP addresses and it
18 continues to try to access. So a standard -- so if --
19 if for any reason a site, you know, blocked us -- you
12:24 20 know, it didn't -- it was not able to enter the site,
21 the system would -- would go through a range of things
22 to make sure, you know, it was able to access the site.
23 And so updating the IP address is one of those, one of
24 the many, many, many things that are built in our system
12:24 25 to -- to do.

1 MR. CHATTERJEE: If we can mark this as 201.
2 (Plaintiff's [Exhibit No. 201](#) marked for
3 identification.)

4 Q. BY MR. CHATTERJEE: The document that I've
12:24 5 given you marked as Exhibit 201 is a declaration you
6 submitted in this case on January 15th, 2010.

7 A. Correct.

8 Q. Do you recognize this document?

9 A. Yes.

12:25 10 Q. If you can look at paragraph 9 of the
11 declaration. Let me know when you're done looking,
12 reading.

13 A. Okay.

14 Q. Okay. The -- the standard measure that you
12:25 15 refer to in this e-mail to Michael Ross, is that -- is
16 that what's described in -- in paragraph 9 of Exhibit
17 2,000 -- Exhibit 201?

18 A. I don't believe it's exactly the same because
19 every site has different -- different ways of
12:25 20 triggering. For example, Google -- you know, Google has
21 blocks that are automatic that when there's too many --
22 too many things coming from a specific IP address on a
23 site, they have -- every site has different types of
24 measures that -- that are put in place and they're not
12:26 25 specifically related to -- to -- you know, to Power.

1 They're -- and so one of our -- one of our standard
2 things our system does when it access a site, it -- one
3 of the things is it updates the IP address as a -- as
4 a -- why -- why is it not being able to access this
12:26 5 site.

6 Q. Right. So --

7 A. So no, I don't think this is referring
8 specifically, you know.... Here. Let me read this
9 again. All -- all -- all I believe number 9 is talking
12:26 10 about is that face -- that according -- that Facebook
11 implemented -- that Facebook is saying that they
12 implemented measures to block users from accessing
13 Facebook.

14 Q. Right. So the technical measures that
12:26 15 Facebook implemented that you're talking about here in
16 the declarations, were those these standard measures
17 that you said Facebook took in Exhibit 200?

18 A. I don't -- I don't know if these -- I think
19 those are -- here's -- let's see here. Yeah,
12:27 20 Facebook -- what I say here, these -- I guess -- I don't
21 know if it's the same measures. I honestly -- this is
22 -- but this is -- right here is referring to the fact
23 that users were not able to access the site.

24 Q. And....

12:27 25 A. And our system -- if the -- if it was unable

1 to access it, one of many things it would do, it would
2 up -- it would update the -- the IP address.

3 Q. Right. And so you -- you recognize that
4 Facebook took a measure to block access from the Power
12:27 5 web site?

6 A. I think this issue has been, yes, has been
7 discussed before in the past.

8 Q. You agree with that?

9 A. Yes.

12:27 10 Q. Okay. And then in this e-mail you say we were
11 able to easily adjust. What are you referring to there?

12 A. I said our system -- system when it cannot
13 access a site for -- it goes -- it goes through a range
14 of checks and one of the things that it updates the IP
12:28 15 address.

16 Q. So when -- when the IP -- if I use the term IP
17 blocking, do you know what that means?

18 A. Yeah.

19 Q. So when Facebook implemented IP blocking, what
12:28 20 you're talking about here is you had this technology
21 developed to use a different IP address?

22 A. Right. That's one of the many troubleshooting
23 measures of the system. And this is predating Facebook.
24 It has nothing to do with -- for any reason it's not
12:28 25 accessing a site, it -- it -- it might -- it could be

1 logical reasons. There are sites that as you said -- as
2 I said in the past, we've had -- we've dealt -- this
3 issue was -- has gone on for -- updating IPs is a
4 standard -- standard measure that the system does when
12:28 5 it cannot access a site.

6 Q. Right. But when -- when Facebook put in place
7 an IP blocking tool --

8 A. Yeah.

9 Q. -- Power then as part of its checks modified
12:29 10 its IP address in order to --

11 A. Well, Power -- Power's IP address --

12 MR. FISHER: Objection. Assumes facts not in
13 evidence. Lacks foundation.

14 Q. BY MR. CHATTERJEE: Let me -- let me finish
12:29 15 asking the question. When Facebook put in place an IP
16 blocking technology, the Power technology as part of its
17 checks used a different IP address, correct?

18 A. Power has -- Power has many IPs. As you've --
19 as you've already established today, we've always had a
12:29 20 large range of IPs. And the system will -- will
21 continue to rotate IPs if -- if it cannot access a site.

22 Q. And that happens in this instance when
23 Facebook blocked one IP address?

24 A. I'm assuming that -- that it happened, yes.

12:29 25 MR. CHATTERJEE: Okay. Let's mark this as

1 Q. Was that sentence a truthful and accurate
2 statement?

3 A. I believe --

4 Q. In light of what you just said with -- with --
12:32 5 with respect to Exhibit 200.

6 A. Sure. I'm saying that our sys -- our system
7 -- what I've said to you is that our system utilized
8 many IP addresses and these IP addresses update and
9 rotate on a regular basis. If -- you know, as a
12:32 10 standard thing. To say that we took a specific -- that
11 it was specifically to circumvent and block, I mean that
12 -- I believe that's a -- that's a -- that's a subjective
13 conversation. We -- we obviously, you know, have --
14 have a system that rotates if it cannot access a site.
12:32 15 So this is -- this is right here --

16 Q. Was that statement truthful and accurate, yes
17 or no?

18 A. So it says here "Nevertheless, Facebook's IP
19 block was ineffective because it blocked only one" "IP
12:33 20 address" that had -- Power used. It "did not block
21 other IPs that Power was using in" its "normal course of
22 business." That's correct.

23 Q. Okay. Was the first sentence "Power did not
24 undertake any effort to circumvent that block, and did
12:33 25 not provide users with any tools to circumvent it."

1 Judge Spero's courtroom because he's not answering the
2 questions.

3 THE WITNESS: Why am I not answering the
4 question? I've answered the question.

12:43 5 Q. BY MR. CHATTERJEE: It's a very simple
6 question, which is after Facebook put in place the block
7 of the IP address could a Power user through the Power
8 browser access the Facebook web site through a different
9 IP address?

12:43 10 A. Yes. Well, the -- the -- the system --

11 Q. Now --

12 A. The system --

13 Q. Hold on.

14 MR. FISHER: Let him finish his answer.

12:43 15 THE WITNESS: Go ahead.

16 Q. BY MR. CHATTERJEE: And that different IP
17 address was an IP address that Power provided?

18 A. Which Power -- it was all -- it was -- it's --
19 not which Power provide -- you're using terminology.

12:43 20 It's -- it's -- it's a Power IP address.

21 Q. Okay.

22 A. It's an existing Power IP address. They don't
23 provide the IP address. It's a -- it's an address.

24 Q. And before Facebook ever put in place a
12:43 25 blocking measure, Power had designed its system to do

1 Q. I'm going to ask you the question one more
2 time.

3 A. But I --

4 Q. No. Mr. Vachani, you can either answer it or
15:27 5 you can't. If you can't answer it, tell me you can't
6 answer it.

7 You knew that the Facebook terms of service
8 did not allow Power users to access the Facebook web
9 site in the way Power wanted to do it; isn't that right?

15:28 10 MR. FISHER: Objection. Assumes facts not in
11 evidence. Lacks foundation. Argumentative. Vague.

12 THE WITNESS: And I would like to -- once
13 again, I would like to ask you the previous question,
14 can you repeat my answer? I -- I'm not answering your
15:28 15 question yet. I'm asking her to repeat the answer I
16 made to your previous question which was similar.

17 MR. CHATTERJEE: Okay. Let's take a break.
18 Tim, we're doing our meet and confer right now.

19 THE VIDEOGRAPHER: We are going off the
15:28 20 record. The time is 3:28 p.m.

21 (Whereupon a break was taken from 3:28 to
22 3:37.)

23 THE VIDEOGRAPHER: We are back on the record.
24 The time is 3:37 p.m.

15:37 25 THE WITNESS: So I previously wanted -- I

1 similar process where almost -- where -- where almost,
2 for example, Google has a clause that states in their
3 things that users cannot do it, but Facebook has
4 continued to do it. And -- and I'll ignore these
15:40 5 things.

6 And I said about five minutes ago -- let me
7 finish, please.

8 Q. BY MR. CHATTERJEE: Finish.

9 A. I said five minutes ago that terms and
15:40 10 conditions are created by -- by a site. And the
11 decision -- the decision on -- on interpreting those
12 terms and conditions and how companies choose to respond
13 to their users have been and continue to be very
14 subjective. Facebook has been very subjective, Power
15:40 15 has been very subjective, and there is no legal
16 precedent. So we can have a discussion all day on this
17 issue. But I've answered the question to you that I --
18 we are very familiar and have read Facebook terms and
19 conditions.

15:41 20 Q. Okay. Let's step back. You said you've read
21 Facebook's terms and conditions. That was prior to
22 accessing the Facebook web site as pursuant to the
23 December 2008 launch, correct?

24 A. Yes.

15:41 25 Q. Did you believe under your reading of the

1 A. I'm not here to offer legal opinions.

2 Q. Okay. So don't go into legal precedence --

3 A. Okay.

4 Q. -- because that has nothing to do with your
15:51 5 testimony.

6 A. Okay.

7 Q. Okay? Now, you noticed that Digsby was not
8 being blocked by Facebook, correct?

9 A. Correct.

10 Q. And you wanted to know why, correct?
15:51

11 A. Yeah.

12 Q. Your -- one of your concerns, among many
13 concerns that may have been the case, was that Facebook
14 might block you. Whether or not it was rational or not,
15:51 15 you were worried about that?

16 A. It's -- it's in the realm of possibilities.

17 Q. And you were worried that Facebook might --
18 pardon me. Let me start.

19 You were worried that Facebook might not like
15:52 20 what power.com was doing or was enabling its users to
21 do, right?

22 A. As I said -- worry is probably not the right
23 word. As I said that in the past exporting contacts is
24 something that nobody has ever, you know, liked when it
15:52 25 was they're the ones receiving it. But it's some --

1 Q. Okay. And what does a production manager do?

2 A. She was helping oversee the production of
3 products.

4 Q. And in this e-mail dated April 24, 2009,
16:18 5 Juliane is -- is informing the three of you that Orkut
6 has blocked Power's IP.

7 A. Correct.

8 Q. Okay. And then the second sentence that she
9 puts forward is that we are working to put the proxy on
16:18 10 Amazon. Right?

11 A. That's correct.

12 Q. And Amazon is a web-based service that has
13 dynamically rotating IPs?

14 A. We had a -- we had a solution on -- on Amazon
16:18 15 that -- we had different -- different levels of
16 solutions and were standard IPs and different --
17 different IP rotating banks. This was part of our
18 solution and was already in place for a long time.

19 Q. And Amazon was one of those rotating IP
16:19 20 things?

21 A. Amazon was one of the places that -- that
22 rotated IPs, correct.

23 Q. Okay. Was that actually implemented?

24 A. It was I think -- that solution was already --
16:19 25 already in place. But I think, as you know, at this

1 Q. Could you translate that second sentence for
2 me?

3 A. Sure. I will prepare for a possible block on
4 the part of Facebook.

16:22 5 Q. What did you understand that to mean?

6 A. I believe that, as we've talked about
7 previously, we understand that it's possible that
8 Facebook, you know, may -- may -- either their system
9 automatically or -- or obviously because at this point
16:22 10 we had also received a -- you know -- in other words,
11 there could be -- they could take actions to -- to try
12 to block -- to try to block Power. So I think that was
13 -- that was what he was saying.

14 Q. Was -- was there any particular reason that
16:22 15 Mr. Santos and you didn't prepare for that before
16 launching the -- the hundred by hundred by hundred
17 campaign?

18 A. Well, we have many -- we have many things --
19 standard things in place. But if they're -- I think
16:23 20 he's saying, well, we don't really know what. We had
21 received a -- you know, a letter from Facebook I think
22 that day or the day before on December 1st or December
23 2nd. I'm not sure if this was, you know, before or
24 after that. I think it was -- it might have been -- I
16:23 25 think we may have received it on December 1st, if I'm

1 not mistaken. I don't even know the issue. But the
2 main thing is we -- we -- we didn't know what -- we
3 didn't really know what Facebook's reaction would be.

4 Q. All right. So if I understand you correctly,
16:23 5 by this point in time you had reviewed Facebook's terms
6 of service and you may have received a cease and desist
7 letter from Facebook?

8 A. I think it was either this day or the day
9 after. I'm not a hundred percent sure what day it was.

16:23 10 Q. And around that time frame Mr. Santos stated
11 he'll prepare for a possible block by Facebook?

12 A. Oh, he was -- he was trying to evaluate the
13 systems if -- if our -- if our system is unable to
14 access Facebook.

16:23 15 Q. Was there any doubt in your mind when he said
16 that that Facebook was considering or may block Power
17 from accessing the Facebook web site in the way that it
18 did?

19 MR. FISHER: Objection. Vague.

16:24 20 THE WITNESS: Obviously -- obviously they --
21 they had sent a -- a legal -- a legal threat. They had
22 sent a legal threat. So, I mean, there -- there --
23 there were definitely, you know, possibilities.

24 Q. BY MR. CHATTERJEE: So you knew that they
16:24 25 didn't feel that Power was authorized to be accessing

1 Facebook in the way that Power was doing?

2 A. We knew that Facebook had -- Facebook had
3 expressed, you know, their opinion that they -- that's
4 correct.

16:24 5 MR. CHATTERJEE: We're getting to an easier
6 part for a little while. 218.

7 (Plaintiff's [Exhibit No. 218](#) marked for
8 identification.)

9 THE WITNESS: Okay.

16:25 10 Q. BY MR. CHATTERJEE: Okay. The document I've
11 given you as Exhibit 218, what -- what is this document,
12 Mr. Vachani?

13 A. What is this document? This is a -- looks
14 like -- this looks like an e-mail from Facebook.

16:25 15 Q. This is an e-mail that you received?

16 A. This e-mail that I received. I don't know if
17 this was a test e-mail or if this was from -- you know,
18 from Facebook. I don't know that. But it looks like it
19 was from Facebook.

16:25 20 Q. And it was to you?

21 A. Yep.

22 Q. And then the subject line has "Ghostday
23 Leandro Abreu," A-b-r-e-u.

24 A. Yeah. This is an e-mail from Facebook.

16:26 25 Q. And Leandro Abreu was -- we -- we talked about

1 Power browser works is it basically, it -- it's a
2 web-based browser, but it -- it can -- it can basically
3 have -- simulate or work similar to any of the major
4 browsers. So when interacting with a site. So it can
17:02 5 be in addition to -- it can be like -- it can work
6 with -- an internet explorer browser. So it can have
7 compatibility when -- when -- it's a new type of browser
8 and it's just a feature inside our browser.

9 Q. If you look at the first e-mail on the string,
17:02 10 one, two, three, four, five, you said "Users are
11 technically violating the terms and conditions of all
12 sites when they use contact book imports...."

13 Do you see that?

14 A. Yep.

17:02 15 Q. What did you mean when you said that?

16 A. It's very simple. So when you use Firefox and
17 if you give them -- if you -- Firefox asks you where you
18 can store your user name and password. Technically
19 you're giving your user name and password to Firefox.
17:02 20 So technically Facebook could -- could sue Firefox for
21 doing that. If you give your -- to Meebo and you give
22 your account as not through the Facebook Connect,
23 Facebook could say -- could go after -- or any -- any
24 site could say you're violating the terms and
17:03 25 conditions.

1 Q. I'm going to state it again.

2 A. Please.

3 Q. I want you to listen really carefully to it.

4 A. Okay.

17:05 5 Q. Okay. Prior to launching the hundred by
6 hundred by hundred campaign, did you believe that users
7 are technically violating the terms and conditions of
8 all sites when they use contact book imports when they
9 give their password to Firefox?

17:05 10 MR. FISHER: Vague. Calls for legal
11 conclusion. Assumes facts not in evidence. Lacks
12 foundation. Go ahead.

13 THE WITNESS: I think my previous answer --
14 and I'll answer it -- answer is technically based on --
17:05 15 now, this is my answer. Is -- here. Technically -- and
16 that's why I use the word -- technically can be accused
17 for violating the terms if they give their password to
18 another site. So that includes -- that answers your
19 question and says not before or after I believe -- we
17:06 20 believe the same thing, so yes.

21 Q. BY MR. CHATTERJEE: Your views are unchanged
22 is my view. Your -- your view of this statement was the
23 same prior to the launch promotion as it was in January
24 10th --

17:06 25 MR. FISHER: Same objection.

1 THE WITNESS: We believe -- we believe that --
2 that site -- yeah, that any site can say you're
3 technically violating their terms if they want to.
4 Whether you agree or disagree is then open to dispute.
17:06 5 That's what we've always, you know, agreed.

6 Q. BY MR. CHATTERJEE: Well, but that isn't what
7 you said here. You said "Users are technically
8 violating the terms and conditions of all sites when
9 they use contact book imports."

17:06 10 A. I'm telling you what the -- what the content
11 and what I meant -- what I meant -- what I believe and
12 mean by that is that technically -- what I mean by
13 technically means that if you want to get technical,
14 every -- every single site on the web is -- can be --
17:06 15 another site can claim the technicality on this issue.

16 Q. Right. Okay.

17 A. That doesn't -- you know, that's all I said.
18 That's all it meant.

19 Q. And -- and -- and so are you saying that you
17:07 20 meant something other than what you said here?

21 A. No. That's what I meant there.

22 Q. And has this view -- has this -- in your view,
23 just to make sure the record's clear, your view has been
24 the same as to this issue since before the launch
17:07 25 promotion was ever put in place?

1 A. My view is that -- my view -- to clarify, this
2 is what I mean here -- this -- I believe it's the same.
3 I don't believe my view has changed. This was in
4 January of 2009. So it was at a later point. But I
17:07 5 believe it's the same, which is any -- any site can
6 technically make a claim that you're violating their
7 terms and then it has to be, you know, worked out.

8 MR. CHATTERJEE: Let's mark this as Exhibit
9 224.

17:07 10 (Plaintiff's [Exhibit No. 224](#) marked for
11 identification.)

12 THE WITNESS: Okay.

13 Q. BY MR. CHATTERJEE: Do you -- do you know what
14 this document is?

17:08 15 A. Yeah. It's our home page.

16 Q. Okay. This was your home page at the time the
17 launch promotion was going on?

18 A. That's correct, yes.

19 Q. Okay. And this Exhibit 224, who -- who -- who
17:08 20 created this graphic on -- on the front associated --
21 listing these different social networking web sites?

22 A. We -- we did. Power.

23 Q. And let me just go through the various things
24 in this little star.

17:08 25 A. Okay.

1 they ask you -- they ask you if you want -- if you want
2 to do it. But then in the future, then they do the log
3 in for you. Because Firefox stores it on their -- on --
4 on -- stores that information. You authorize --

17:13 5 Q. Is that stored on the Firefox servers or
6 natively in your computer?

7 A. Well, Firefox has a -- a browser. I don't
8 know if they store it. I know that most companies --
9 every company has a different policy on that issue.
17:13 10 Meebo, for example, stores the passwords. Firefox, I --
11 since they have it on your -- on your browser, they can
12 -- they can store it. I don't know if they back it up.
13 Every company's got a different policy on that.

14 Q. Okay.

17:13 15 A. It's --

16 Q. So you -- you don't know how Firefox stores
17 it?

18 A. No. I know every company has a different
19 policy.

17:14 20 Q. Okay. When -- when Power launch -- launched
21 the launch promotion in 2008, did it -- did it have the
22 money to pay people if they invited a hundred -- a
23 hundred users?

24 A. We did pay -- we did -- we did people -- we
17:14 25 did pay people. Yes.

1 Q. Mr. Santos is, correct?

2 A. That's correct.

3 Q. And as of March 29th, 2009, had the Power
4 users that had won the hundred by hundred by hundred
17:18 5 campaign been paid?

6 A. I believe they were paid sometime in April.
7 And I believe that the terms and the conditions said
8 that we had -- you know, it was way within the time that
9 we had said that we would pay the users.

17:18 10 Q. Okay.

11 A. So they just wanted to clarify. They don't --
12 this -- they were just getting -- naturally at this time
13 we were making priorities on where we want to pay costs
14 so that --

17:18 15 Q. Was -- was there any particular reason why you
16 waited?

17 A. Well, I think that we had fired many people at
18 that time and we had reduced costs. So they wanted to
19 understand if this was going to be paid. And I said
17:19 20 yes. And the fact is it was paid. It was made to be a
21 priority to be paid as we had planned.

22 MR. CHATTERJEE: Let's mark this as 227.

23 (Plaintiff's [Exhibit No. 227](#) marked for
24 identification.)

17:20 25 THE WITNESS: Okay.

1 was our terms and conditions, then that's correct.

2 Q. You don't recall any specific discussions
3 about that?

4 A. I don't recall them. But again, this is not
17:24 5 -- terms and conditions are usually not -- in most cases
6 they're -- they're ongoing, you know, things.

7 Q. Right. Do you recall any discussions about
8 power.com's terms of use and restrictions on users?

9 A. I remember having -- I've had discussions on
17:24 10 the issue. And you probably have e-mails. If it was
11 anything that was really substantial, it would probably
12 be in an e-mail of my comments and thoughts on it.

13 Q. So other than reflected in the e-mail, you
14 don't have any specific recollections?

17:25 15 A. No, I don't have any specific recollections.
16 Right.

17 MR. CHATTERJEE: I'm going to go down memory
18 lane again. Exhibit 229.

19 (Plaintiff's [Exhibit No. 229](#) marked for
17:25 20 identification.)

21 Q. BY MR. CHATTERJEE: So, Mr. Vachani, what I've
22 handed you as Exhibit 229 is a chat log between you and
23 somebody named Greg.

24 A. Okay.

17:25 25 Q. Do you know who Greg is?

1 Q. "we will have to have a clever ip rotating
2 system and other techniques. this is something we were
3 just starting to think about."

4 Let me start with who is the "we"?

17:32 5 A. I don't know. Whoever the technical guys --
6 this is -- this is before Power. I was working on --
7 you know, so I was just -- I must have had some contract
8 program guys that were just exploring -- we were just
9 exploring technical ideas on data extraction.

17:32 10 Q. And this hypothetical concept that you were
11 developing you felt needed a clever IP rotating system?

12 A. Well, we were trying to figure out what are
13 the different ways to export large amounts of data
14 when -- you know, if a user says import my whole social
17:33 15 network into -- import my whole social network instead
16 of just importing my contacts. So this was again an
17 academic exercise to -- like, think about all the
18 different issues involved in exporting entire profiles
19 with -- with photos and everything else.

17:33 20 Q. Do you mean to suggest that the statement made
21 there means something other than what it says?

22 A. What does it say?

23 Q. "we will have to have a clever ip rotating
24 system and other techniques."

17:33 25 A. Well, I think that was -- that was one of the

1 -- one of the ideas that -- you know, that we explored
2 is an IP rotating system is potentially one way to -- to
3 be able to access larger amounts of data.

4 Q. Without being slowed down and blocked?

17:33 5 A. Without being slowed down, correct.

6 Q. Then if you turn to the third page, there's a
7 section that says "Steve says: assuming the IP address
8 was dynamically changing, is the danger" that "pattern
9 that would be easily recognized?"

17:34 10 Do you see that?

11 A. Yep.

12 Q. Okay. Could you explain to me what you meant
13 by that question?

14 A. Yeah. I think the whole -- the whole exercise
17:34 15 was to try to understand when you're dealing with
16 exporting large amounts of data what are -- I mean,
17 that's what the whole discussion was just are there --
18 what are the ways that you could -- you could address
19 this hypothetically.

17:34 20 Q. And at least as early as 2005 you were aware
21 that one of the ways that you could try and address this
22 problem was by -- by dynamically rotating IP addresses?

23 A. Yeah. It says, as we've mentioned, we've --
24 we have built -- it's a way that has -- has proven to be
17:34 25 useful.

1 MR. CHATTERJEE: 230.

2 (Plaintiff's [Exhibit No. 230](#) marked for
3 identification.)

4 THE WITNESS: Okay.

17:36 5 Q. BY MR. CHATTERJEE: Who is Paul King?

6 A. He was another technical person that I -- that
7 I -- on this exercise that I contacted.

8 Q. If you look at the very end of this e-mail
9 string --

17:36 10 A. Yep.

11 Q. -- Mr. King tells you Orkut's -- "Orkut's
12 license agreement" expressly "forbids robots, so they
13 are onto it and may be" do -- "doing things to prevent
14 automated retrieval."

17:36 15 Do you see that?

16 A. Okay.

17 Q. Do you know if that was a true or untrue
18 statement?

19 A. I have no idea. I'm assuming that -- you
17:36 20 know, robots in general are -- are things that, you
21 know, some -- data -- data extraction and caching -- for
22 example, when Google goes and caches the web and does
23 sites, there have been -- for a long time their robots
24 would be blocked. And Google over the years, you know,
17:36 25 they gained both legitimacy and gained -- created

1 standing alone isn't a robot. But if I wrote a script
2 to move from IP address to one -- to another IP address
3 --

17:39 4 A. If you wrote a script to do anything in a
5 site, you know --

6 Q. That would be a robot.

7 A. -- that could be considered -- so, as I said,
8 when Facebook goes and scrapes a site and takes the
9 stuff, that's a robot. In my definition that's a robot
17:39 10 going as a robot script that's going and accessing
11 contacts with or without the permission of that site.

12 Q. All right. And so was -- would you
13 characterize the script that allowed for a dynamic
14 assignment of IP addresses that was implemented by Power
17:39 15 as a robot?

16 A. No, that's not a robot.

17 Q. Why not?

18 A. That was a -- that's a system that just
19 updated IPs. It wasn't going out and doing things on --
17:39 20 you know, a robot is -- is something that's going out on
21 a site and doing something. Changing -- having an IP --
22 IP address update is not a -- is a -- is a different
23 system. It's not a robot PowerScript.

24 Q. Now, you say here in your -- in your response
17:39 25 to Mr. King "...our plans" is "to have rotating IP

1 addresses so we could have 10,000 or even more IP
2 addresses throughout the process."

3 A. So in -- in this time in 2005, the whole
4 concept of rapid data -- data extraction or exporting --
17:40 5 again, this was a hypothetical exercise because no one
6 had ever exported -- people had exported context, but no
7 one had ever exported entire social -- social -- where
8 you could -- entire social graphs. So this was again a
9 hypothetical exercise. Because if you start growing
17:40 10 virally -- because if you are able to achieve this and
11 start growing even faster, what would be the issues that
12 you would have to face in dealing with the same type of
13 exports, but exporting as we -- you saw the exercise we
14 went to contact --

17:40 15 Q. Right. But this was the same sort of issue
16 where having rotating IP addresses was a tool that you
17 were considering using in order to avoid being blocked
18 or slowed down in the same way we discussed with those
19 other documents.

17:40 20 A. To avoid -- as I -- it would be -- it would be
21 a way to -- to extract -- if a user said I want to
22 extract my data and that -- that was what the purpose
23 there was. If a user says I want to import my whole
24 social network, what -- what are the technical issues
17:41 25 that would be encountered for a user wanting to access

1 their whole social network. Especially if -- you know,
2 if -- if, you know, if -- if -- if the site didn't allow
3 that much data to be extracted, even if the user wanted
4 it.

17:41 5 MR. CHATTERJEE: This is Exhibit 231.

6 (Plaintiff's [Exhibit No. 231](#) marked for
7 identification.)

8 THE WITNESS: Okay.

9 Q. BY MR. CHATTERJEE: So this is an e-mail from
17:41 10 Eric Santos to you dated August 31st, 2006.

11 A. Correct.

12 Q. It appears that Orkut was blocking Power in
13 2006?

14 A. Power didn't exist. This was -- this was the
17:42 15 -- we were playing around with a -- another -- another
16 -- just the concepts of accessing -- we were just --
17 this is the beginnings of -- of -- of Power. But the
18 earlier applications on -- on ways where users want to
19 -- we had different apps. When they would access the
17:42 20 site the user would say I want to access by messaging
21 and send messaging apps or I want to create a browser
22 that browses. And so he's commenting that irrelevant of
23 the -- irrelevant of what the application is, sites have
24 standard things in place that, you know, these are --
17:42 25 these are kind of standard things when, you know --

1 break in -- break into. So they're completely different
2 issues, but the -- but the issues might -- might, you
3 know, be related.

4 Q. But -- but the idea of having dynamically
17:48 5 rotating IP addresses was something that was implemented
6 by Power before the launch promotion; is that fair?

7 A. Yeah. I mean, I think we've said this over
8 and over and over again that Power has -- Power already
9 had an automatic IP rotation system, as you can see, for
17:49 10 a long time back. It wasn't a concept that appeared the
11 day of Facebook. Obviously it was an issue that -- that
12 affected so many -- so many activities of our -- our
13 browser, our PowerScript language, our Power everything.
14 Because it was -- it was something very new and
17:49 15 innovative.

16 MR. CHATTERJEE: Let's mark this as 233.
17 (Plaintiff's [Exhibit No. 233](#) marked for
18 identification.)

19 THE WITNESS: Okay.

17:50 20 Q. BY MR. CHATTERJEE: So do you recognize the
21 document that I just handed you --

22 A. Yes.

23 Q. -- that's marked Exhibit 232 (sic). This is
24 an e-mail between you and Eric Santos --

17:50 25 A. Correct.

1 is the only way to connect to Facebook. Any other way,
2 we're going to, you know, threat -- threaten this
3 company.

4 Q. So let me reframe the question then to be more
18:00 5 precise in that way.

6 A. Sure.

7 Q. Prior to the launch promotion, you knew that
8 Facebook's approach, their actual technical approach to
9 data portability was different than the approach and
18:00 10 views you had.

11 A. That's correct, yes.

12 Q. And you knew that they didn't -- would not
13 want Power encouraging data portability in the way that
14 it was approaching the Facebook web site?

18:01 15 A. Actually, we had no idea because they made
16 public statements saying one thing. Their actions
17 stated other things. There was a lot -- it was a very
18 convoluted message that they had.

19 Q. You knew that their actions indicated that
18:01 20 they did not want to allow for data portability --

21 MR. FISHER: Objection. Vague.

22 Q. BY MR. CHATTERJEE: -- other than through
23 Facebook Connect, correct?

24 A. Actually, we didn't know. We didn't know. As
18:01 25 you just saw, we went through exercises and we saw other

1 A. Google. I'm just trying to go through the --
2 the main companies. Twitter. To my best of my
3 knowledge, no. But again, I may be -- I may be missing
4 a minor one.

18:09 5 Q. So we spent a fair amount of time talking
6 about dynamically associated IP addresses.

7 A. Yes.

8 Q. I think you said that technology was
9 implemented from the very beginning?

18:09 10 A. Well, as you can see, it's the technology of
11 dynamic and rotating IPs was a conversation that was
12 part of our company's -- you know, built into our
13 core -- our core -- core technology from the -- you
14 know, from the beginning. Obviously technologies
18:10 15 continue to evolve, continue to learn, continue to
16 become more dynamic. And you can see we had very
17 extensive issues on scalability, on how you deal with,
18 you know, creating ground-breaking innovation.

19 Q. I -- I -- I understand that. Very limited
18:10 20 question.

21 A. Okay. Please.

22 Q. The dynamically associated IP address --

23 A. Yes.

24 Q. -- that was something around from the
18:10 25 beginning?

1 A. Yes.

2 Q. Okay. And the Amazon option to -- to -- to go
3 to them to have an unlimited number of IP addresses was
4 also implemented shortly -- shortly before the launch?

18:10 5 A. It was -- it wasn't available in the
6 beginning. It was -- you know, we had to work with many
7 different places. Amazon later on, I don't know when,
8 they opened up the system where they had that -- their
9 web services. When that -- that made -- that made --
18:10 10 that made that solution that we had already built just
11 more -- more robust.

12 Q. Okay. And -- and was that before or after the
13 launch promotion, if you know?

14 A. I don't remember.

18:10 15 Q. Okay.

16 A. I don't know when it was. Whenever Amazon
17 made it available, we started looking at it.

18 Q. Other -- other than those two technical
19 solutions, was there anything else that Power did to
18:11 20 ensure that Power users could access the various social
21 networking web sites that -- that -- that were part of
22 power.com's architecture?

23 A. Well, I'm -- I mean, I think in our -- our
24 browser, you know, we went through a lot of different
18:11 25 optimizations to make sure that our browser would be

(Civ. Proc. § 2025.520(e))

STATE OF CALIFORNIA)
) ss
COUNTY OF CONTRA COSTA)

I am a duly qualified Certified Shorthand

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b) and prior to being examined, the witness was first duly sworn by me. (Fed. R. Civ. P. 28(a), 30(f)(1)).

I am not a relative or employee of any attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in this action. (Fed. R. Civ. P. 28).

I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is a true record of the testimony given by the witness. (Fed. R. Civ. P.

1 30(f)(1)).

2 Before completion of the deposition, review of
3 the transcript (XX) was () was not requested. If
4 requested, any changes made by the deponent (and
5 provided to the reporter) during the period allowed, are
6 appended hereto. (Fed. R. Civ. P. 30(e)).

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8 Dated: JANUARY 13, 2012

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11 Chenece P. Peterson
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